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March 22, 2012

VIA EMAIL – beth.jones@aacounty.org
AND FIRST CLASS MAIL

Ms. Elizabeth E. Jones
Administrative Officer to the County Council
Box 2700
Annapolis, Maryland 21404

Re: Subpoena to James Teare, Sr. issued on March 20, 2012

Dear Ms. Jones:

I represent Colonel James Teare, Sr. who, as you know, is the Chief of the Anne Arundel County Police Department. The purpose of this letter is to inform you that Chief Teare will be declining your invitation to appear before the Council on March 27, 2012 to testify about allegations that the Executive Protection Unit had engaged in certain listed activities. As I am sure you are aware, each of the enumerated issues has been the subject of numerous articles in the media, and many of them are detailed in the recent indictment of County Executive Leopold.

I have advised Chief Teare that as a law enforcement officer it is not advisable for him to offer public testimony about these matters when a public criminal trial of the issues which are the subject of your subpoena will soon be held. It cannot possibly be in the best interest of the State of Maryland for the chief law enforcement officer of the County to be publicly disclosing possibly relevant police department information in light of the pending trial on those issues.

Moreover, some of the information you seek regarding allegations about compilation of dossiers of public and private information of public officials and private citizens, and possible unlawful use of criminal information databases by the Executive Protection unit, is currently under active investigation by the State Prosecutor, and while another law enforcement agency, the Maryland State Police, had been requested by Chief Teare to conduct an internal investigation, they have declined because they did not wish to potentially interfere with the State Prosecutor. It would seem prudent for the County Council to do the same.

Chief Teare also does not wish to interfere in any way with that criminal investigation, which he might well be by making public disclosures to the Council. Moreover, we believe that your proposed inquiry would also require him to make public disclosures about individual employees – something that would be illegal in light of existing personnel restrictions on such disclosures.

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Finally, as regards this specific subpoena, we believe it to be invalid for a number of reasons. First, the decision to issue it was apparently done behind closed doors in violation of the Public Meeting requirement of Section 307 of the Charter. Second, while the Council may have the power to compel attendance of witnesses and production of records, it may only do so in connection with an inquiry authorized by the Charter or by law. A subpoena issued as a result of a secret meeting is neither. Finally, the Anne Arundel County Code specifically gives subpoena powers in a criminal matter to the States Attorney, not to the Council. These matters, at best at this stage, are the subject of a criminal investigation. As long as that investigation continues it is our belief that the council has no authority to pursue its own civil investigation of the same matters.

In short, he will not appear on March 27. When the criminal investigations have been completed, Chief Teare will be happy to appear and give testimony, but not until then. If you wish to have the Council's attorney call me to discuss this, I am available.

Very truly yours,



Gerard P. Martin

GPM:smg

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